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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/874,476	06/04/2001	Dieter Blaschke	88265-4038	6732

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EXAMINER

TRAN LIEN, THUY

ART UNIT	PAPER NUMBER
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1761

7

DATE MAILED: 08/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

TC-7

Office Action Summary

Application No.

09/874,476

Applicant(s)

Blaschke et al

Examiner

Lien Tran

Art Unit

1761



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on May 20, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) ☐ The translation of the foreign language provisional application has been received.

- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5
- ☐ Interview Summary (PTO-413) Paper No(s). _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Art Unit: 1761

1. Upon further consideration, the indication of allowability of claim 6 is hereby withdrawn. 2. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weber in view of Moline and the brochure on "Gourmet Cookies" and the Pillsbury Best Cookies Cookbook.

Weber discloses a refrigerated cookie dough containing 20-50% by weight flour, 20-40% by weight sugar, about 12-25% by weight shortening, about 0-10% by weight water and minor amounts of leaveners, salt, egg albumin, egg yolk solids, and enrichment. The dough also contains edible particles such as candy coated chocolates, colored sugar crystals, chocolate morsels and the like. The dough is exemplified in the examples. (See col. 3 and the examples).

Weber does not disclose a method of making individual cookies by separating pieces from a dough which has separable pieces by grooves or score lines and baking the pieces.

The Gourmet Cookies are frozen slab of cookie dough which is pre-cut to provide individual pieces. When baked cookies are needed, the required number of pieces is separated and then placed on a baking tray. The baking is done in a conventional oven for 12-15 minutes.

Moline teaches to provide score lines on pizza to separate the pizza in individual slices so that the slices can subsequently be broken from the sections and baked individually, if desired. (See col. 1 lines 30-40)

The cookbook teaches to make refrigerated cookies; it also teaches for longer storage the refrigerated dough can be frozen.

Art Unit: 1761

It would have been obvious to one skilled in the art to provide the Weber dough with the precut lines as taught by the Gourmet Cookies to provide the consumer with the ability to bake only individual portion of the dough as needed. This provision will provide flexibility and reduce wasting as only portion that is wanted is baked. While the Gourmet Cookies brochure teach to cut the dough to obtain separable pieces, it would have been obvious to one skilled in the art at the time of the invention to form separable pieces by providing score lines as taught by Moline. The provision of the score lines has the advantage in that the pieces stay together but can easily be separated when desired and this facilitates the handling of the product. While both the Gourmet Cookies and Moline are directed to frozen product, the concept taught by these references are equally applicable to refrigerated dough because as shown by the cookbook dough that is refrigerated can be subjected to freezing if longer storage is desired. Thus, the choice between freezing and refrigerating resides in the term of storage and is not affected by the cutting, scoring or the composition of the dough. As to the depth and width of the score lines, these are effective-result variable which can be determined through routine experimentation. It would have been obvious to one to determine the lines which provide the easiest separation. As to the limitation of the dough flowing upon baking, this will obvious occur in the Weber dough because flowing is the characteristic of cookie dough. The variation in the amount of the minor ingredient such as egg depends on the type of cookie and the taste, flavor desired. It would also have been obvious to include the particles of any size depending on the texture desired in the cookies.

Art Unit: 1761

2. Claims 21-23,28 are rejected under 35 U.S.C. 102(a) as being anticipated by the brochure on Gourmet Cookies for the same reason set forth in paragraph 2 of the previous office action.

3. Claims 24-27 and 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over the brochure on Gourmet Cookies in view of Moline.

The disclosure of the Gourmet Cookies is described above.

Gourmet Cookies do not have grooves or lines with the width and depth as claimed.

Moline teaches to provide score lines on pizza to separate the pizza in individual slices so that the slices can subsequently be broken from the sections and baked individually, if desired.

(See col. 1 lines 30-40)

While the Gourmet Cookies brochure teach to cut the dough to obtain separable pieces, it would have been obvious to one skilled in the art at the time of the invention to form separable pieces by providing score lines as taught by Moline. The provision of the score lines has the advantage in that the pieces stay together but can easily be separated when desired and this facilitates the handling of the product. As to the depth and width of the score lines, these are result-effective variable which can be determined through routine experimentation. It would have been obvious to one to determine the lines which provide the easiest separation. As to baking to form a mass or individual cookie, this would have been obvious to one skilled in the art depending on what kind of product is wanted. If a mass of cookies resembling a big whole cookie is wanted, it would have been obvious to place the pieces close together so that a mass is formed upon baking; if an individual cookie is desired, it would have been obvious to place the piece far apart.

Art Unit: 1761

The baking of the pieces in separate pans is an obvious matter of preference. Whether the lines intersect or arcuate depends on the configuration of the dough block and the shape wanted for the individual piece; this variation can be determined by one skilled in the art depending on the design desired.

4. In the response filed May 20, 2002, applicant argues claims 21-23 are not anticipated by the brochure on Gourmet Cookies. However, applicant's argument is not applicable to claims 21-23 because these claims do not contain the limitations that applicant argues are not taught by the brochure on Gourmet Cookies. Claim 21 does not recite the limitation of a refrigerated dough. The frozen slab of the Gourmet Cookies is a dough block and separate pieces are obtained from the block and baked to obtain individual cookie. The slab of the Gourmet Cookies does have lines as shown by the picture. The limitations in claims 21-23 are disclosed in the brochure on Gourmet Cookies.

5. Applicant's arguments with respect to claims 1-30 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Tran whose telephone number is 703-308-1868. The examiner can normally be reached on Wed-Fri. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9310.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

August 4, 2002

Lien Tran
LIEN TRAN
PRIMARY EXAMINER
Group 1702